

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

Writ Petition No.8300 of 2005

Narayan Nagar Cons Coop Society .Petitioners

VS

The State of Mah & ors..Respondents

Mr S P Kanuga with H P Vyas for petitioners
Mrs Poonam Bhosale for respondent nos.1 to 5
Mr. A.P.Vanarse AGP for State

CORAM: S.U.KAMDAR J.

Dated 8.12.2005

P.C:

1. The petitioner is having a ration shop bearing no.34 E 135 and was holding 4761 units. There was another ration shop in the very same area bearing no. 34 E 99. The said ration shop was cancelled and by an order dated 17.2.2003 the units held by the cancelled ration shop were temporarily transferred to the petitioner's shop being 6152 units. In place of the said cancelled ration shop the government issued advertisement and invited applications for putting up a new ration shop. Pursuant to the said advertisement respondent no. 5 has been selected and the said 6152 units of the cancelled ration shop no.34 E 99 were retransferred from the petitioner to respondent no 5 shop.

2. The learned counsel for the petitioner has drawn my attention to the order passed by the division bench of this court dated 22.3.2005 in writ petition no 2246 of 1998 and has contended that granting of ration shop to the respondent no. 5 is illegal because petitioner is a society and under the circular issued by the government petitioner is entitled to maximum 10000 units and minimum 3000 units. He has contended that in that view of the matter he is entitled to the maximum units and all the units of the cancelled ration shop ought to have been allotted only to the petitioner and ought not to have allotted in favour of the respondent no. 5. I have considered the order passed by the division bench of this court in the aforesaid writ petition. The division bench in that case was seized with the matter where the criteria was laid down for opening of a new ration shop and the court had, by considering the circulars and notifications has issued directions in para 5 thereof for opening of a new ration shop. In my opinion the present case is not governed by the said circular or by the judgement in the aforesaid writ petition inasmuch as in the present case the shop which has been allotted to respondent no. 5 is not a new shop but it has been given in lieu of cancellation of the earlier ration shop

i.e. 34 E 99. In the present case thus no new shop is granted but licence to carry out ration shop no. 34 E 99 is now granted to the respondent no. 5 in place of original holder of the same. In that view of the matter the question of considering the petitioner's case by the authorities to allot him on permanent basis the said units which are temporarily attached to his shop does not arise. The order passed permitting the ration shop of the respondent no. 5 in lieu of earlier cancelled shop is legal and correct. Petition is accordingly dismissed with no order as to costs.